

REMARKS

The Office Action mailed September 10, 2003 has been carefully reviewed and the foregoing amendment and following remarks have been made in consequence thereof.

Claims 1-4, 6-9, 11-14, 16-18, and 20-30 are now pending in this application. Claims 10 and 19 have been canceled. Claims 29-30 are newly added. Claims 1-28 stand rejected.

Applicants wish to thank Examiner for courtesies extended to one of the Applicants and Applicants' representatives during a telephone interview conducted November 14, 2003. During the interview the cited prior art and a proposed claims amendment were discussed. Although no agreement was reached with respect to the patentability of the claims, the Examiner suggested that Applicants submit the amendment and any additional arguments in writing for further consideration.

The rejection of Claims 18-20 under 35 U.S.C. § 102(e) as being anticipated by Nickles et al. "Nickles" (U.S. Patent No. 6,144,901) is respectfully traversed. Claim 19 has been canceled.

Nickles describes a real-time locomotive engineer training tool that has the ability to display a real-time or "live" representation of a single train on the current track, the dynamic interaction of the cars and locomotives, and the current state of the pneumatic brake system. As described in Nickles, the primary function of the system is to optimize the operation of the train on which the system is operating. More specifically, utilizing dynamic data representative of conditions within the train along with fixed data representative of the track that the train is operating, the Nickles system monitors performance and performs calculations to create "a real-time display of the train dynamics." Utilizing the displayed information, a crew, on this one train, is able to "better control the train." See Col. 4, lines 55-58.

Claim 18 recites a system comprising a plurality of sub-systems and a transportation business entity central data center wherein the system is configured to "collect at least one set of transportation data from at least one sub-system...compare said collected transportation data set to at least one standard transportation data...generate at least one problem area data set based upon the comparison of the collected and standard data without human intervention...prioritize top transportation system problem areas wherein said priority

is based upon a delay magnitude...recommend business activities relating to managing the transportation business entity based on the prioritized transportation system problem areas wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering the state of a transportation system environmental system, determining at least one location to place emergency equipment, recommending at least one repair facility location, determining an emergency equipment component inventory, and determining a repair location component inventory."

Nickles does not describe nor suggest a system comprising a plurality of sub-systems and a transportation business entity central data center wherein the system is configured to collect at least one set of transportation data from at least one sub-system, compare the collected transportation data set to at least one standard transportation data, generate at least one problem area data set based upon the comparison of the collected and standard data without human intervention, prioritize top transportation system problem areas wherein said priority is based upon a delay magnitude, and recommend business activities relating to managing the transportation business entity based on the prioritized transportation system problem areas wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering the state of a transportation system environmental system, determining at least one location to place emergency equipment, recommending at least one repair facility location, determining an emergency equipment component inventory, and determining a repair location component inventory. Specifically, Nickles does not describe nor suggest a system that is configured to prioritize top transportation system problem areas wherein said priority is based upon a delay magnitude. Rather, Nickles describes a locomotive engineer training tool that may be programmed with limits so that when the limits are exceeded, the training tool will audibly and/or visibly alert the crew to the situation. Moreover, Nickles does not describe nor suggest a system that is configured to recommend business activities relating to managing the transportation business entity based on the prioritized transportation system problem areas wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering the state of a transportation system environmental system, determining at least one location to place emergency equipment, recommending at least one repair facility location, determining an

emergency equipment component inventory, and determining a repair location component inventory. Rather, Nickles describes a locomotive engineer training tool and method of optimizing a single train operation utilizing determined conditions of location, track profile and train forces of the train. More specifically and in contrast to the present invention which recommends business activities relating to managing the entire transportation business entity, Nickles is limited to altering the throttle and brake settings of the train that the system is operating. Particularly, Nickles utilizes the fixed track database to instruct the operator to alter the speed based upon a known track condition. Applicants submit that this is neither generating at least one problem area data set nor recommending business activities relating to managing the transportation business entity based on the prioritized transportation system problem areas. Thus, Nickles does not describe all the claimed elements of the present invention, and Nickles teaches away from the present invention in that Nickles describes a tool and method that optimizes the operation of only a single train, rather than a system that is configured to recommend business activities relating to managing the transportation business entity as is recited in Applicants' invention. For the reasons set forth above, Claim 18 is submitted to be patentable over Nickles.

Claim 20 depends, from independent Claim 18. Claim 19 has been canceled. When the recitations of Claim 20 are considered in combination with the recitations of Claim 18, Applicants submit that dependent Claim 20 likewise is patentable over Nickles.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 18 and 20 be withdrawn.

The rejection of Claims 1-17, 21-23, 25, 27, and 28 under 35 U.S.C. § 103 as being unpatentable over Nickles et al. "Nickles" (U.S. Pat. No. 6,144,901) in view of Gibbs (U.S. Pat. No. 5,836,529) is respectfully traversed.

Nickles is described above. Gibbs describes an object based railroad transportation network display system 18. The transportation network 20 includes a set of mobile transports and a set of fixed transports. Using a set of wayside occupancy detectors 22, an output device, a memory and a processing unit, the system automatically maintains a transportation network database; automatically generates transportation network status statistics, performance statistics, and warning signals for user-selectable transports within a user-selectable geographic region; and outputs graphical representations of the generated statistics

and the warning signals. Each wayside occupancy detector 22 identifies the presence of a mobile transport and in response, transmits a mobile transport detection signal to the processing unit. The memory, comprises a transport object that includes program instructions for automatically retrieving the set of transport detection signals and for automatically collecting a set of information related to operation of the transportation network. The memory further includes a service object comprising program instructions for generating graphical representations of transport locations (based on the set of transport detection signals), transport status statistics, and transport performance statistics upon the output device corresponding to both the set of mobile transports and a set of fixed transports. The processing unit executes the program instructions stored in the memory and is coupled to the set of wayside occupancy detectors, the output device, and the memory. The output device is used for displaying information.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Nickles nor Gibbs, considered alone or in combination, describe or suggest the claimed combination. Specifically, neither Nickles nor Gibbs describe recommending business activities relating to managing the transportation business entity wherein recommending business activities includes altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, or determining an inventory for each repair facility. Rather, in contrast to the present invention, Nickles describes collecting data relating to a single train to train an engineer, and Gibbs describes collecting mobile transport location information to track multiple trains through a rail system, but neither Nickles nor Gibbs describe recommending business activities relating to managing the transportation business entity.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is

impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Nickles is cited for managing a transportation system, and Gibbs is merely cited for its teaching of "recommending business activities relating to managing the transportation business entity based on at least one of the generated problem are data set and the comparison of the collected and standard data (i.e. ...if the data item deviate from the user specified value or a range of nominal or expected values, an alert signal is generated...warns the user of the variance...." However, Applicants respectfully disagree with the assertion in the Office Action that Gibbs discloses recommending business activities relating to managing the transportation business entity wherein recommending business activities includes altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, or determining an inventory for each repair facility . For example, at col. 4, lines 2-7 Gibbs describes:

The system and method automatically maintains a highly structured railroad system information database and generates multiply nested maps, tables, charts and alerts for providing varying levels of real-time perspective on an operating railroad system. These levels of perspective range from a "system-wide" view needed by executives, senior managers and planners to an individualized and detailed report needed by a customer service representative, a train master or a dispatcher. In addition, the system automatically generates alert signals according to customizable warning criteria whenever a variance from planned operation has occurred.

Although the Office action apparently equates generating alert signals with recommending business activities relating to managing the transportation business entity wherein recommending business activities includes altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system,

determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, or determining an inventory for each repair facility, Gibbs describes generating alert signals wherein the user is prompted to specify a value or range of values for any selected map or report data item, after which, the map object or the report object monitors the real-time value of the data item, such that if the data item deviates from the user specified value or range of nominal or expected values, an alert signal is generated and the map object or report object warns the user of the variance by both an audible and a visual signal on the output device. This is in contrast to recommending business activities relating to managing the transportation business entity as described in the present invention. Since there is no teaching nor suggestion in the cited art for the combination and the cited combination does not even describe the claimed invention, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

Moreover, and to the extent understood, no combination of Nickles and Gibbs, describes or suggests the claimed invention. Specifically, Claim 1 recites a method for managing a transportation system by a transportation business entity wherein the method includes collecting at least one set of transportation data from at least one sub-system...comparing the at least one set of collected transportation data set to at least one standard transportation data...generating at least one problem area data set based upon the comparison of the collected and standard data...recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, and determining an inventory for each repair facility.” Neither Nickles nor Gibbs, considered alone or in combination, describe or suggest a method for managing a transportation system by a transportation business entity wherein the method includes collecting at least one set of transportation data from at least one sub-system, comparing the at least one set of collected transportation data set to at least one standard

transportation data, generating at least one problem area data set based upon the comparison of the collected and standard data, and recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, and determining an inventory for each repair facility. Specifically, neither Nickles nor Gibbs, considered alone or in combination, describe nor suggest recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, and determining an inventory for each repair facility. Rather, Nickles describes a real-time locomotive engineer training tool that has the ability to display a real-time or "live" representation of a single train on the current track, and a real-time display which shows a graphical and numerical representation of the current state of the train, and Gibbs describes generating alert signals wherein the user is prompted to specify a value or range of values for any selected map or report data item, after which, the map object or the report object monitors the real-time value of the data item, such that if the data item deviates from the user specified value or range of nominal or expected values, an alert signal is generated and the map object or report object warns the user of the variance by both an audible and a visual signal on the output device. This is in contrast to recommending business activities relating to managing the transportation business entity, as described in the present invention, as being based on at least one of the generated problem area data set and the comparison of the collected and standard data, and wherein recommending business activities includes altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an

emergency equipment inventory, or determining an inventory for each repair facility. Specifically, in one embodiment, the present invention examines all delays to generate a list of largest delays. Unlike any combined cited art which merely provides an alarm that a value exceed a limit, the present invention detects the importance of the delay and assigns priorities to those delays having the largest impact on the system. If, for example, a main line or track is broken between New York and Chicago this single delay would have a major impact upon all trains traveling between these two locations and as a result the entire system. In contrast to the prior art that would simply detect one broken line without any special weighting or priority, the present invention monitors the delays caused by the broken track and would give this broken line higher priority than a broken track carry one train per week. Using the significance of the delay information, the railroad would assign more repair crews to the broken main line and allow the less traveled track to be fixed later. For at least the reasons set forth above, Claim 1 is submitted to be patentable over Nickles in view of Gibbs.

Claims 2-4, 6-9, 21-23, 25, and 27 depend from independent Claim 1. Claims 5 and 10 have been canceled. When the recitations of Claims 2-4, 6-9, 21-23, 25, and 27 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-4, 6-9, 21-23, 25, 25, and 27 likewise are patentable over Nickles in view of Gibbs.

Claim 11 recites a management system for managing a transportation system by a transportation business entity wherein the system includes "at least one sub-system for collecting at least one set of transportation data...a sub-system for comparing the at least one set of collected transportation data set to at least one standard transportation data...a sub-system for generating at least one problem area data set based upon the comparison of the collected and standard data...a management and decision making sub-system that is configured to recommend business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data."

Neither Nickles nor Gibbs, considered alone or in combination, describe or suggest a management system for managing a transportation system by a transportation business entity wherein the system includes at least one sub-system for collecting at least one set of transportation data, a sub-system for comparing the at least one set of collected transportation data set to at least one standard transportation data, a sub-system for generating at least one problem area data set based upon the comparison of the collected and standard data, a

management and decision making sub-system that is configured to recommend business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data. Specifically, neither Nickles nor Gibbs, considered alone or in combination, describe or suggest a management and decision making sub-system that is configured to recommend business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data. Rather, Nickles a real-time locomotive engineer training tool that has the ability to display a real-time or "live" representation of a single train on the current track, and Gibbs describes generating alert signals if the data item deviates from the user specified value or range of nominal or expected values to warn the user of the variance by both an audible and a visual signal on the output device. Moreover, neither Nickles nor Gibbs describe recommending business activities relating to managing the transportation business entity wherein recommending business activities as described in the instant specification at page 8, line 6-13 as using the failure analysis, sub-system to determine where to place emergency equipment, where to build repair shops, and the in-stock components or parts for each repair shop, and at page 8, lines 23-25 that the management algorithms include congestion areas to determine whether to build more track. Rather, in contrast to the present invention, Nickles describes collecting data relating to a single train to train an engineer, and Gibbs describes collecting mobile transport location information to track multiple trains through a rail system, but neither Nickles nor Gibbs describe recommending business activities relating to managing the transportation business entity. For at least the reasons set forth above, Claim 11 is submitted to be patentable over Nickles in view of Gibbs.

Claims 12-14, 16, 17, and 28 depend from independent Claim 11. Claim 15 has been canceled. When the recitations of Claims 12-14, 16, 17, and 28 are considered in combination with the recitations of Claim 11, Applicants submit that dependent Claims 12-14, 16, 17, and 28 likewise are patentable over Nickles in view of Gibbs.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1-4, 6-9, 11-14, 16, 17, 21-23, 25, 27, and 28 be withdrawn.

The rejection of Claim 24 under 35 U.S.C. § 103 as being unpatentable over Nickles et al. "Nickles" (U.S. Pat. No. 6,144,901) and Gibbs (U.S. Pat. No. 5,836,529), and further in

view of Goode, David R., "Pruning and improving the equipment fleet", "Goode" is respectfully traversed.

Nickles and Gibbs are described above. Goode describes Norfolk Southern's fleet optimization program that identifies railcars that "are unfit to load and uneconomical to operate" and railcars "known to have a high maintenance history" and removes them from service. Notably, Goode describes removing cars from service after they have been identified as being unfit to load, rather than predicting a life of a railcar and predicting a maintenance cost of the railcar over the life of the railcar as claimed in the present invention.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Nickles is cited for managing a transportation system, and Gibbs is merely cited for its teaching of "recommending business activities relating to managing the transportation business entity based on at least one of the generated problem are data set and the comparison of the collected and standard data (i.e. ...if the data item deviate from the user specified value or a range of nominal or expected values, an alert signal is generated...warns the user of the variance....", and Goode is cited for predicting a life of a railcar and predicting a maintenance cost of a railcar over the life of the railcar. However, Applicants respectfully disagree with the assertions in the Office Action that Gibbs discloses recommending business activities relating to managing the transportation business entity based on at least one of the generated problem are data set and the comparison of the collected and standard data. For example, at col. 4, lines 2-7 Gibbs describes:

The system and method automatically maintains a highly structured railroad system information database and generates multiply nested maps, tables, charts and alerts for providing

varying levels of real-time perspective on an operating railroad system. These levels of perspective range from a "system-wide" view needed by executives, senior managers and planners to an individualized and detailed report needed by a customer service representative, a train master or a dispatcher. In addition, the system automatically generates alert signals according to customizable warning criteria whenever a variance from planned operation has occurred.

Although the Office action apparently equates generating alert signals with recommending business activities relating to managing the transportation business entity, Gibbs describes generating alert signals wherein the user is prompted to specify a value or range of values for any selected map or report data item, after which, the map object or the report object monitors the real-time value of the data item, such that if the data item deviates from the user specified value or range of nominal or expected values, an alert signal is generated and the map object or report object warns the user of the variance by both an audible and a visual signal on the output device. This is in contrast to recommending business activities relating to managing the transportation business entity as described in the present invention as being based on at least one of the generated problem area data set and the comparison of the collected and standard data. Specifically, in one embodiment, the present invention examines all delays to generate a list of largest delays. Unlike any combined cited art which merely provides an alarm that a value has exceeded a limit, the present invention detects the importance of the delay and assigns priorities to those delays having the largest impact on the system. If, for example, a main line or track is broken between New York and Chicago this single delay would have a major impact upon all trains traveling between these two locations and as a result the entire system. In contrast to the prior art that would simply detect one broken line without any special weighting or priority, the present invention monitors the delays caused by the broken track and would give this broken line higher priority than a broken track carry one train per week. Using the significance of the delay information, the railroad would assign more repair crews to the broken main line and allow the less traveled track to be fixed later.

Applicants also disagree with the assertion within the Office Action that Goode describes predicting a life of a railcar and predicting a maintenance cost of a railcar over the

life of the railcar. Rather, Goode describes Norfolk Southern's fleet optimization program that identifies railcars that "are unfit to load and uneconomical to operate" and railcars "known to have a high maintenance history" and removes them from service. Thus, Goode describes removing cars from service after they have been identified as being unfit to load, rather than predicting a life of a railcar and predicting a maintenance cost of the railcar over the life of the railcar as claimed in the present invention.

Since there is no teaching nor suggestion in the cited art for the combination and the cited combination does not even describe the claimed invention, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

Moreover, and to the extent understood, no combination of Nickles, Gibbs and Goode, describes or suggests the claimed invention. Specifically, Claim 1 recites a method for managing a transportation system by a transportation business entity wherein the method includes collecting at least one set of transportation data from at least one sub-system...comparing the at least one set of collected transportation data set to at least one standard transportation data...generating at least one problem area data set based upon the comparison of the collected and standard data...recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, and determining an inventory for each repair facility."

None of Nickles, Gibbs, nor Goode, considered alone or in combination, describe or suggest a method for managing a transportation system by a transportation business entity wherein the method includes collecting at least one set of transportation data from at least one sub-system, comparing the at least one set of collected transportation data set to at least one standard transportation data, generating at least one problem area data set based upon the comparison of the collected and standard data, and recommending business activities relating

to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, and determining an inventory for each repair facility. Specifically, none of Nickles, Gibbs, nor Goode, considered alone or in combination, describe nor suggest recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data.

Rather, Nickles describes a real-time locomotive engineer training tool that has the ability to display a real-time or "live" representation of a single train on the current track, and a real-time display which shows a graphical and numerical representation of the current state of the train, Gibbs describes generating alert signals wherein the user is prompted to specify a value or range of values for any selected map or report data item, after which, the map object or the report object monitors the real-time value of the data item, such that if the data item deviates from the user specified value or range of nominal or expected values, an alert signal is generated and the map object or report object warns the user of the variance by both an audible and a visual signal on the output device, and Goode describes Norfolk Southern's fleet optimization program that identifies railcars that "are unfit to load and uneconomical to operate" and railcars "known to have a high maintenance history" and removes them from service. This is in contrast to recommending business activities relating to managing the transportation business entity, as described in the present invention, as being based on at least one of the generated problem area data set and the comparison of the collected and standard data. For at least the reasons set forth above, Claim 1 is submitted to be patentable over Nickles and Gibbs, and further in view of Goode.

Claim 24 depends from independent Claim 1. When the recitations of Claim 24 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 24 likewise is patentable over Nickles and Gibbs and further in view of Goode.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claim 24 be withdrawn.

The rejection of Claim 26 under 35 U.S.C. § 103 as being unpatentable over Nickles et al. "Nickles" (U.S. Pat. No. 6,144,901) and Gibbs (U.S. Pat. No. 5,836,529), and further in view of "The proof is in the payout", "Payout" is respectfully traversed.

Nickles and Gibbs are described above. Payout describes the results of a study indicating that intermodal transport is becoming safer as of 1990, when the study was conducted. Payout also describes the transport industry's efforts to achieve lower loss and damage claims industry-wide. Notably, Payout does not describe recommending business activities relating to managing the transportation business entity comprises determining at least one of an insurance claim type, a quantity of insurance claims, and a risk profile of at least one of a transportation carrier, railcar car, and a route.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Nickles is cited for managing a transportation system, and Gibbs is merely cited for its teaching of "recommending business activities relating to managing the transportation business entity based on at least one of the generated problem are data set and the comparison of the collected and standard data (i.e. ...if the data item deviate from the user specified value or a range of nominal or expected values, an alert signal is generated...warns the user of the variance....", and Payout is cited for recommending business activities relating to managing the transportation business entity comprises determining at least one of an insurance claim type, a quantity of insurance claims, and a risk profile of at least one of a transportation carrier, railcar car, and a route.

However, Applicants respectfully disagree with the assertions in the Office Action that Gibbs discloses recommending business activities relating to managing the transportation business entity based on at least one of the generated problem are data set and the comparison of the collected and standard data. For example, at col. 4, lines 2-7 Gibbs describes:

The system and method automatically maintains a highly structured railroad system information database and generates multiply nested maps, tables, charts and alerts for providing varying levels of real-time perspective on an operating railroad system. These levels of perspective range from a "system-wide" view needed by executives, senior managers and planners to an individualized and detailed report needed by a customer service representative, a train master or a dispatcher. In addition, the system automatically generates alert signals according to customizable warning criteria whenever a variance from planned operation has occurred.

Although the Office action apparently equates generating alert signals with recommending business activities relating to managing the transportation business entity, Gibbs describes generating alert signals wherein the user is prompted to specify a value or range of values for any selected map or report data item, after which, the map object or the report object monitors the real-time value of the data item, such that if the data item deviates from the user specified value or range of nominal or expected values, an alert signal is generated and the map object or report object warns the user of the variance by both an audible and a visual signal on the output device. This is in contrast to recommending business activities relating to managing the transportation business entity as described in the present invention as being based on at least one of the generated problem area data set and the comparison of the collected and standard data.

Applicants also disagree with the assertion within the Office Action that Payout describes recommending business activities relating to managing the transportation business entity comprises determining at least one of an insurance claim type, a quantity of insurance claims, and a risk profile of at least one of a transportation carrier, railcar car, and a route. Rather, Payout describes a loss and damage payout history over a period of time and describes methods various transport companies and their suppliers are using to further lower loss and damage payouts but, Payout does not describe nor suggest recommending business activities relating to managing the transportation business entity comprises determining at least one of an insurance claim type, a quantity of insurance claims, and a risk profile of at least one of a transportation carrier, railcar car, and a route.

Since there is no teaching nor suggestion in the cited art for the combination and the cited combination does not even describe the claimed invention, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection be withdrawn.

Moreover, and to the extent understood, no combination of Nickles, Gibbs and Payout, describes or suggests the claimed invention. Specifically, Claim 1 recites a method for managing a transportation system by a transportation business entity wherein the method includes collecting at least one set of transportation data from at least one sub-system...comparing the at least one set of collected transportation data set to at least one standard transportation data...generating at least one problem area data set based upon the comparison of the collected and standard data...recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, and determining an inventory for each repair facility.”

None of Nickles, Gibbs, nor Payout, considered alone or in combination, describe or suggest a method for managing a transportation system by a transportation business entity wherein the method includes collecting at least one set of transportation data from at least one sub-system, comparing the at least one set of collected transportation data set to at least one standard transportation data, generating at least one problem area data set based upon the comparison of the collected and standard data, and recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an

emergency equipment inventory, and determining an inventory for each repair facility. Specifically, none of Nickles, Gibbs, nor Payout, considered alone or in combination, describe nor suggest recommending business activities relating to managing the transportation business entity based on at least one of the generated problem area data set and the comparison of the collected and standard data wherein recommending business activities relating to managing the transportation business entity includes at least one of altering an asset allocation priority, generating a maintenance action, altering a state of a transportation system environmental system, determining at least one location of emergency equipment, recommending at least one location for a repair facility, determining an emergency equipment inventory, and determining an inventory for each repair facility.

Rather, Nickles describes a real-time locomotive engineer training tool that has the ability to display a real-time or "live" representation of a single train on the current track, and a real-time display which shows a graphical and numerical representation of the current state of the train, Gibbs describes generating alert signals wherein the user is prompted to specify a value or range of values for any selected map or report data item, after which, the map object or the report object monitors the real-time value of the data item, such that if the data item deviates from the user specified value or range of nominal or expected values, an alert signal is generated and the map object or report object warns the user of the variance by both an audible and a visual signal on the output device, and Payout describes a loss and damage payout history over a period of time and describes methods various transport companies and their suppliers are using to further lower loss and damage payouts. For at least the reasons set forth above, Claim 1 is submitted to be patentable over Nickles and Gibbs, and further in view of Payout.

Claim 26 depends from independent Claim 1. When the recitations of Claim 26 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claim 26 likewise is patentable over Nickles and Gibbs and further in view of Payout.


For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claim 26 be withdrawn.

Newly added Claim 29 depends from independent Claim 20, which is submitted to be in a condition for allowance and patentable over the cited art. For at least the reasons set forth above, Applicant respectfully submits that Claim 29 is also patentable over the cited art.

Newly added Claim 30 depends from independent Claim 11, which is submitted to be in a condition for allowance and patentable over the cited art. For at least the reasons set forth above, Applicant respectfully submits that Claim 30 is also patentable over the cited art.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited. If, during review of this response, the examiner believes a telephone interview would aid in the prosecution of this application, the Examiner is kindly invited to contact the undersigned at the telephone number listed below.

Respectfully Submitted,



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